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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/515,809

02/29/2000

Steve Trong

CISCO-1937

9991

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07/12/2006

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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/515,809	Applicant(s) TRONG, STEVE	
	Examiner Christopher J. Brown	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 9, and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 4/17/2006 have been fully considered but they are not persuasive.

As per applicants argument that the applicant has amended the claims to remove the term “base layer” and “consisting of” this does not appear to be the case.

Claims 1, and 9 still contain the term “base layer” and claim 9 still contains the term “consisting” it is not clear if “consisting” still warrants a 112 2nd rejection, however “base layer” still warrants a 112 1st rejection.

The applicant argues against the Housel reference US 5,907,678 stating “Housel teaches storing the data transmitted over a connection and the claimed invention is storing data about the connection as is shown by storing of the base layers”. The examiner agrees that Housel’s data is transmitted and stored, but there is nothing that precludes the transmitted and stored information to also be about the connection itself. In this instance, Housel teaches that the checkpointed data contains protocol information about the connection. The examiner fails to see the difference between the invention as claimed (data stored about the connection) and the current art of record (data transmitted and stored about the connection).

The applicant argues that the examiner has not provided proper motivation in the combination of Housel US 5,907,678 with Mankude US 6,735,205. The examiner

disagrees. The applicant states that “there is no need to provide a checkpoint server in housel as that is not the problem being solved by housel”. The applicant states that the checkpoint server becomes redundant. The examiner argues that redundancy is exactly the motivation that allows the combination of the two references. Mankude teaches “may have an associated secondary version on another node for high availability”. The examiner argues that the problem being solved is irrelevant because the motivation is found in the prior art, as well as knowledge of one of ordinary skill in the art, see MPEP 2143.01.

Claim Rejections - 35 USC § 112

2. Claims 1, and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1, and 9 state “base layer” This term is not a term known to one of ordinary skill in the art. The examiner can find support for this term in the specification only on page 5 lines 2, 14, page 16 line 14, and page 19 lines 14-17. The examiner cannot find any definition in the specification for the term “base layer” only that the base layer is in the checkpoint server.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As per claim 9, the term “comprises” is used

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with regards to storing relevant data, and the term “consists” is used with regard to check pointing data. If these two data are the same, the items included in the consisting statements differ. It is unclear which consisting statement the applicant wished to utilize.

Claims 1, and 9 recite the limitation "base layer". There is insufficient antecedent basis for this limitation in the claim.

Claims 1 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has amended “said checkpointing data” to “relevant data”. It is not clear if the relevant data is the same data as the checkpointing data, or an entirely different set of data. Both include connection information and the same unique identifier.

Claims 3 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has amended the claims to only recite “data”. This data does not have the proper “the” or “said” in front of it, so the examiner can only conclude that the applicant wishes it to be new data, however it is unclear if it is new data, or data previously mentioned in claims 1, and 9. If the data is new data, the examiner would point out that the

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broad term “data” is confusing when dependent on claims that already have “checkpointing data” and “relevant data”. Clarification is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housel III US 5,907,678 in view of Mankude US 6,735,205.

As per claims 1 and 9,

Housel III teaches a communication system having a checkpointing server, (Col 14 lines 15-33). Housel III teaches having unique identifiers, and connection information (protocol) (Col 16 lines 35-39, Col 17 lines 20-26). Housel III teaches determining whether there has been a change of state for an existing connection, (Col 14 lines 15-22). Housel teaches checkpointing data with said unique identifier and using checkpointed data to re-establish connection in said communication system, (Col 14 lines 20-33). Housel teaches that a router is part of the communications network, (Col 1 line 35).

Housel does not teach storing checkpoint information on the router or checkpoint server.

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Mankude teaches that in addition to storing the checkpoint information on a server, to store the check point information on a third node, (Col 6 lines 50-55). It would have been obvious to one of ordinary skill in the art to use the checkpointing of Mankude with the system of Housel because Mankude provides high availability.

Claims 3, and 11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Housel III US 5,907,678 in view of Friedman US 6,151,679 in view of Mankude US 6,735,205.

As per claims 3, and 11, Housel teaches recovering checkpointed data to reestablish a connection, (Col 14, lines 20-33). Housel teaches use of a router in communications, (Col 1 line 35). Housel does not teach firewalls.

Friedman teaches the use of routers as firewalls in a communications system, (Col 4 lines 8-13).

It would have been obvious to one of ordinary skill in the art to use the firewall router of Friedman in the checkpoint system of Housel to protect clients from hackers and viruses.

Mankude teaches that in addition to storing the checkpoint information on a server, to store the check point information on a third node, (Col 6 lines 50-55). It would have been obvious to one of ordinary skill in the art to use the

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checkpointing of Mankude with the system of Housel because Mankude provides high availability.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jaques Louis Jaques can be reached on (571)272-6962. The fax phone


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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher J. Brown

6/26/06



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